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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,633	09/26/2003	David G. Boyer	502054-A-01-US (Boyer)	8084
47702 7590 02/03/2009 RYAN, MASON & LEWIS, LLP 1300 POST ROAD SUITE 205 FAIRFIELD, CT 06824				
EXAMINER MEHRPOUR, NAGHMEH				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 02/03/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/672,633

Applicant(s)

BOYER ET AL.

Examiner

MELODY MEHRPOUR

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1-24**, are rejected under 35 U.S.C. 102(e) as being anticipated by

Brunson et al. (*US Publication 2007/0121808 A1*).

Regarding claims 1, 12, 17, Brunson teaches an apparatus/method for delivering a voice mail message to a recipient, comprising:

a memory (0056); and

at least one processor, coupled to the memory, operative to (0056);

receive said voice mail message from a sender (0098);

obtain a presence status of said sender from a presence server (0075); and

identification of at least one device where the sender is present (0059);

an deliver said voice mail message to said recipient to automatically respond to the sender an indication of a presence of said sender (0056, 0093, 0098, 0108).

Regarding claims 2, 18, Brunson teaches a method/apparatus wherein said presence server extracts presence information from a plurality of presence data stores (0045, 0054, 0056).

Regarding claims 3, 19, Brunson teaches a method/apparatus of claim 2, wherein said presence server translates said presence information to a standard format (0108).

Regarding claims 4, 20, Brunson teaches a method/apparatus wherein said presence server determines said presence status of said sender based on one or more rules that aggregate extracted presence information (0059, 0061, 0086).

Regarding claims 5, 21, Brunson teaches a method/apparatus wherein said recipient responds to said sender in another domain (0054).

Regarding claims 6, 22, Brunson teaches a method/apparatus wherein said presence information indicates if the message sender can be reached at one or more indicated devices (0108).

Regarding claims 7, Brunson teaches a method of claim 1, wherein said presence information is obtained from a user registration process (0086, 0078, 0092, 0108).

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Regarding claims 8, Brunson teaches a method of claim 1, wherein said presence information is obtained by observing activities of a user (0066).

Regarding claims 9, 14, Brunson teaches a method/apparatus wherein said recipient can respond to said sender in real time (0108).

Regarding claims 10, 15, Brunson teaches a method wherein said recipient can response to said sender in non-real time (0099).

Regarding claims 11, 16, 23, Brunson teaches a method/apparatus wherein said recipient can respond to said sender using a non-textual form of communication (0098, 0132).

Regarding claim 13, Brunson teaches a method of claim 12, wherein said providing step allows said recipient to respond to said sender in another domain (0147).

Regarding claim 24, Brunson teaches an apparatus of claim 17, wherein said presence status indicates a presence status of said sender across a plurality of domains (0078).

Response to Arguments

2. Applicant's arguments filed 11/12/08 have been fully considered but they are not persuasive.

In response to the applicant's argument that *"the voice mail message from a sender, obtain a presence status of said sender from a presence server, and identification of at least one device where the sender is present" an deliver said voice mail message to said recipient to automatically respond to the sender an indication of a presence of said sender"*

The Examiner asserts that Brubson teaches In step 324 and decision diamond 328, the messaging system 104, determines the type of advice to be forwarded to the user by analyzing the capabilities of the device and/or examining the administered preferences of the user, if any. "Advice" refers to information generated, derived, or accessible by the messaging system 104 that is associated with the user. What information qualifies as advice can be defined by the user and/or by system administrators. For example, "advice" (or message-related information) is typically summary information, but can be any information relating to the messaging service including information contained in **voice mail messages**, e-mail messages, multimedia messages, calls received for the user for which no message was left, the state of dynamic greetings, alerts, notices, broadcasts, and the like. Examples of such information include a number of new or unheard messages in the user's mailbox, a list of recent missed callers, summaries of the contents of **voice** and/or text messages, reminders, alerts, and the like. The nature and extent of ongoing advice is configurable by user and system administration. When the newly registered device is a text instant messaging-capable device, the messaging system 104 in step 332 formulates a text message containing the type of advice desired according to previously administered preferences. The instant text

message is sent to the user in step 336. **The newly registered device associated with the user receives the instant text message in step 340. The user can act on or ignore the instant message, as desired. When the newly registered device is an audio capable device, the messaging system 104 may be administered to immediately place a call to the device. The messaging system 104 in step 344 (FIG. 3B) sends an INVITE message (containing the system's SDP payload) to the newly registered device. In response, the device in step 348 sends an OK message (containing the device's SDP payload). After media is established, the messaging system 104 in step 352 then plays announcements including the user's advice, e.g., mailbox information. The user hears the status message in step 356 and can act on or ignore the instant message, as desired.**

In response to the applicant's argument that *"Brunson and the present application were, at the time the claimed invention was made, owned by the same person"*.

The Examiner asserts that the record shows that Brunson owned by SHERADON ROSS P.C., and the present application owned by Ryan, Mason & Lewis, LLP. The applicant's needs to submit the related documents, in order to show proof of the statement.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. **Any responses to this action should be mailed to:**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELODY MEHRPOUR whose telephone number is 5(571)272-791313. The examiner can normally be reached on 8:00 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost be reached (571) 272-7023.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Naghmeh Mehrpour/

Primary Examiner, Art Unit 2617

January 28, 2009